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18 Attorneys for Plaintiff

19 HYPER ICE, INC.

20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF TEXAS, FORT WORTH DIVISION

22 HYPER ICE, INC., a California  
23 corporation,

24 Plaintiff,

25 vs.

26 PLAYMAKAR, INC., a Delaware  
27 corporation,

28 Defendant.

CASE NO.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

Trial Date: None Set



**GENERAL ALLEGATIONS**

8. The ‘708 Patent is entitled “Battery-Powered Percussive Massage Device” and issued on February 9, 2021, claiming priority to Application No. 15/902,542 filed on Feb. 22, 2018. A true and correct copy of the ‘708 Patent is attached hereto as Exhibit 1.

9. Robert Marton and Anthony Katz are the inventors of the inventions disclosed in the ‘708 Patent. Hyperice is the owner of the ‘708 Patent.

10. This action arises out of PlayMakar’s direct, induced, and/or contributory infringement of the ‘708 Patent.

11. Since at least 2018, Hyperice has developed, arranged for the manufacture of, and sold the Hypervolt line of battery-powered percussive massage devices, including the Hypervolt 2 Pro:



12. PlayMakar manufactures, offers for sale, sells, and/or uses the infringing PlayMakar MVP Percussion Massager:



**COUNT 1 – PATENT INFRINGEMENT**

13. Hyperice incorporates by reference the allegations in Paragraphs 1-12 above.

14. PlayMakar has infringed and continues to infringe the ‘708 Patent-in-suit under the Patent Laws of the United States, 35 U.S.C §§ 271 *et seq.* PlayMakar manufactures, offers for sale, sells, and/or uses the infringing PlayMakar MVP Percussion Massager product at issue in this case, and/or actively induces the manufacture, sale, and/or use of the infringing PlayMakar MVP Percussion Massager product and/or contributes to the manufacture, sale, and/or use of the infringing PlayMakar MVP Percussion Massager product.

15. PlayMakar infringes at least Claim 7 of the ‘708 Patent. PlayMakar’s PlayMakar MVP Percussion Massager product is a battery-powered percussive massage device that meets the following limitations, either literally or under the

1 doctrine of equivalents:

- 2 a. a main enclosure extending along an axis, the main enclosure
- 3 having a proximal end and a distal end, the main enclosure including a cavity;
- 4 b. a motor having a rotatable shaft;
- 5 c. a reciprocation assembly coupled to the rotatable shaft, the
- 6 reciprocation assembly including a piston, the reciprocation assembly
- 7 configured to reciprocate the piston along a reciprocation axis in response to
- 8 rotation of the rotatable shaft, the reciprocation assembly positioned within
- 9 the cavity of the main enclosure;
- 10 d. an applicator head having a proximal end removably attachable
- 11 to the piston, and having a distal end that extends from the distal end of the
- 12 main enclosure when the proximal end of the applicator is attached to the
- 13 piston;
- 14 e. a handle having an outer gripping surface;
- 15 f. a battery unit housed at least partially within the handle;
- 16 g. a printed circuit board positioned within the handle, the printed
- 17 circuit board including a battery controller that receives electrical power via a
- 18 connector and that selectively charges the at least one battery, the printed
- 19 circuit board having a mounting surface with a peripheral edge;
- 20 h. a charge indication display, the charge indication display
- 21 comprising a plurality of light-emitting diodes (LEDs) positioned on the
- 22 mounting surface of the printed circuit board near the peripheral edge of the
- 23 mounting surface, the LEDs generating light responsive to a charge condition
- 24 of the at least one battery unit, the light emitted outward from the LEDs
- 25 toward the peripheral edge of the printed circuit board; and
- 26 i. an annular light transmissive ring positioned around the handle
- 27 in alignment with the LEDs to propagate light from the LEDs to the outside
- 28 of the handle.



1 DATED: November 11, 2021

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6 Lawrence R. LaPorte

7 Attorneys for Plaintiff

8 HYPER ICE, INC.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, HYPER ICE, INC. hereby demands a trial by jury of all issues triable by jury.

DATED: November 11, 2021

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